



General Assembly

February Session, 2010

***Raised Bill No. 5131***

LCO No. 703

\* \_\_\_\_HB05131ENV\_\_030910\_\_\_\_\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING VOCATIONAL AGRICULTURE SCIENCE AND  
TECHNOLOGY AQUACULTURE CENTER SHELLFISH BEDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 26-194 of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2010*):

4 (a) [The] Except as provided in subsection (e) of this section, the  
5 Commissioner of Agriculture may lease in the name of the state, under  
6 such regulations as [he] the commissioner may prescribe and for a  
7 period not longer than ten years, all shellfish areas that have been  
8 conveyed to the state or placed under state jurisdiction by the town of  
9 West Haven and any undesignated grounds, within the exclusive  
10 jurisdiction of the state, for the purpose of planting and cultivating  
11 shellfish. The authority herein conferred shall include the Cormell  
12 Reef, Portchester, Great Captain's Island, Field Point and Greenwich  
13 Point natural beds as located and described in section 3295 of the  
14 general statutes, revision of 1918. Any person desiring to lease grounds  
15 for such purpose shall make application in writing to the  
16 commissioner and all grounds leased by authority of the provisions of

17 this section shall be leased to the highest responsible bidder, for a  
18 minimum fee of four dollars per acre. Such lease or lease renewal shall  
19 require the lessee to make a good faith effort to cultivate and harvest  
20 shellfish from the leased area. Such lease or lease renewal shall  
21 prohibit the lessee from entering a contract whereby the lessee agrees  
22 not to cultivate and harvest shellfish for any period of time. No lessee  
23 may enter an agreement with a third party that will prevent the lessee  
24 from carrying out the lessee's obligations under the lease unless the  
25 Department of Agriculture and the Attorney General have approved  
26 such agreement. The form of such application and lease shall be  
27 approved by the Attorney General, and all such leases shall be  
28 recorded in the records of the commissioner. No lease shall be granted  
29 to a resident of a state which does not lease shellfish grounds to  
30 residents of this state, except that any nonresident who was granted a  
31 lease on or before October 1, 1985, may, upon the expiration of such  
32 lease, apply for a renewal or further lease as provided in this section.  
33 The commissioner shall grant any such lease to nonresidents upon the  
34 same terms and conditions as to residents of this state. Any lessee or  
35 holder of shellfish grounds, on the expiration of any lease thereof  
36 which has been or which may be granted, having fulfilled all of such  
37 lessee's or holder's obligations under the lease shall, upon application  
38 to the commissioner, have preference in the reletting of such ground  
39 for a like term to that granted in the original lease, excluding the rental  
40 fee, which shall not be less than the minimum fee per acre as provided  
41 in this subsection. A lease renewal shall not be granted if the applicant  
42 is in arrears for rent on the original lease of such grounds. Such  
43 application for such renewal or further lease shall be granted without  
44 notice or advertisement of the pendency thereof; provided no renewal  
45 or further lease of such ground shall be granted when the  
46 commissioner, for cause, ceases to lease such ground for shellfish  
47 culture. All assignments or transfers of leases shall be subject to the  
48 approval of the commissioner and shall be recorded in his records.  
49 Any person who interferes with, annoys or molests another in the  
50 enjoyment of any lease authorized by the provisions of this section  
51 shall be subject to the penalties provided in section 26-237. The

52 provisions of sections 26-212, 26-215 and 26-232 shall not apply to any  
53 shellfish grounds leased pursuant to the provisions of this section.

54 (b) Upon request of a lessee, the commissioner may divide or  
55 consolidate shellfish grounds leased by such lessee, if the  
56 commissioner determines such division or consolidation to be in the  
57 best interests of the state. The minimum fee per acre shall apply to  
58 shellfish grounds divided or consolidated pursuant to this subsection.

59 (c) The Commissioner of Agriculture shall assess the owner of any  
60 facility that requires a certificate issued pursuant to section 16-50k or  
61 that requires approval by the Federal Energy Regulatory Commission  
62 and that crosses any grounds of Long Island Sound within the  
63 jurisdiction of the state, including, but not limited to, any shellfish area  
64 or leased, designated or granted grounds, an annual host payment fee  
65 of forty cents per linear foot for the length of such facility within the  
66 jurisdiction of the state. The Commissioner of Agriculture shall deposit  
67 seventy-five per cent of the proceeds of such fee into the expand and  
68 grow Connecticut agriculture account established pursuant to section  
69 22-38c and shall transfer the remaining twenty-five per cent to the  
70 General Fund.

71 (d) Notwithstanding the provisions of subsection (a) of this section,  
72 any owner of a utility line or public use structure that impacts a leased  
73 area shall pay to the lessee the costs of removing or relocating any  
74 shellfish. Nothing in this subsection shall be construed to prohibit the  
75 state or any lessee from recovering damages incurred by the state or  
76 the lessee caused by the installation, construction or presence of such  
77 utility line or public use structure.

78 (e) The commissioner may designate to each regional agricultural  
79 science and technology education center, established pursuant to  
80 section 10-64, shellfish areas described in subsection (a) of this section  
81 that are necessary for conducting educational grow-out and  
82 depuration activities related to commercial scale aquaculture  
83 operations within state jurisdictional waters provided: (1) The total

84 acreage designated pursuant to this subsection is not more than five  
85 per cent of the total acreage under the commissioner's control and  
86 authority pursuant to subsection (a) of this section; and (2) any  
87 shellfish areas designated pursuant to this subsection are not in  
88 production at the time of such designation.

89     [(e)] (f) The Commissioner of Agriculture may designate an agent  
90 within the department to exercise the authority of said commissioner  
91 under this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2010</i>	26-194
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***ENV***        *Joint Favorable*